

**Rule 403. Exclusion of relevant evidence on grounds of prejudice, confusion, or waste of time.**

Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

**History:** Ad. Sup. Ct. Ord. 12729, Dec. 29, 1976, eff. July 1, 1977.

**Cross-References**

Cumulative evidence defined, 26-1-102.

Witnesses — protection from harassment, 26-2-401.

**Rule 404. Character evidence not admissible to prove conduct, exceptions; other crimes; character in issue.**

(a) Character evidence generally. Evidence of a person's character or a trait of character is not admissible for the purpose of proving action in conformity therewith on a particular occasion, except:

(1) Character of accused. Evidence of a pertinent trait of character offered by an accused, or by the prosecution to rebut the same.

(2) Character of victim. Evidence of a pertinent trait of character of the victim of the crime offered by an accused, or by the prosecution to rebut the same, or evidence of a character trait of peacefulness of the victim offered by the prosecution in a homicide case or in an assault case where the victim is incapable of testifying to rebut evidence that the victim was the first aggressor.

(3) Character of witness. Evidence of the character of a witness, as provided in Article VI.

(b) Other crimes, wrongs, acts. Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show action in conformity therewith. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.

(c) Character in issue. Evidence of a person's character or a trait of character is admissible in cases in which character or a trait of character of a person is an essential element of a charge, claim, or defense.

**History:** Ad. Sup. Ct. Ord. 12729, Dec. 29, 1976, eff. July 1, 1977; amd. Sup. Ct. Ord. June 7, 1990, eff. June 7, 1990.

**Rule 405. Methods of proving character.**

(a) Reputation or opinion. In all cases in which evidence of character or a trait of character of a person is admissible, proof may be made by testimony as to reputation or by testimony in the form of an opinion. On cross-examination, inquiry is allowable into relevant specific instances of conduct.

(b) Specific instances of conduct. In cases in which character or a trait of character of a person is an essential element of a charge, claim, or defense, or where the character of the victim relates to the reasonableness of force used by the accused in self defense, proof may also be made of specific instances of that person's conduct.

**History:** Ad. Sup. Ct. Ord. 12729, Dec. 29, 1976, eff. July 1, 1977; amd. Sup. Ct. Ord. June 7, 1990, eff. June 7, 1990.

**Cross-References**

Opinion testimony by lay witnesses, Rule 701, M.R.Ev. (see Title 26, ch. 10).

**Rule 406. Habit; routine practice.**

(a) Habit and routine practice defined. A habit is a person's regular response to a repeated specific situation. A routine practice is a regular course of conduct of a group of persons or an organization.

(b) Admissibility. Evidence of habit or of routine practice, whether corroborated or not, and regardless of the presence of eyewitnesses, is relevant to prove that conduct on a particular occasion was in conformity with the habit or routine practice.

(c) Method of proof. Habit or routine practice may be proved by testimony in the form of an opinion or by specific instances of conduct sufficient in number to warrant a finding that the habit existed or that the practice was routine.

**History:** Ad. Sup. Ct. Ord. 12729, Dec. 29, 1976, eff. July 1, 1977.